

DIVISION 18. PENALTIES AND DISPOSITION OF FEES, FINES, AND FORFEITURES

CHAPTER 1. PENALTIES

Article 1. Public Offenses

Felony

42000. Unless a different penalty is expressly provided by this code, every person convicted of a felony for a violation of any provision of this code shall be punished by a fine of not less than one thousand dollars (\$1,000) or more than ten thousand dollars (\$10,000) or by imprisonment in the state prison or by both such fine and imprisonment.

Amended Ch. 1092, Stats. 1983. Effective September 26, 1983. Operative January 1, 1984.

Driving in Excess of 100 Miles per Hour

42000.1. Notwithstanding Section 42001, every person convicted of an infraction for a violation described in subdivision (b) of Section 22348 shall be punished by a fine not exceeding five hundred dollars (\$500).

Added Ch. 980, Stats. 1983. Effective January 1, 1984.

Speeding Violations

42000.5. Every person convicted of an infraction for a violation of Section 22350, 22406, or 22407 while operating a bus, motor truck, or truck tractor having three or more axles, or any motor truck or truck tractor drawing any other vehicle, shall be punished by a fine not exceeding one hundred dollars (\$100) for a first conviction, except that if the person has exceeded the specified speed limit by 10 miles per hour or more, the fine shall not exceed two hundred dollars (\$200) for a first conviction, and not exceeding three hundred dollars (\$300) for a second or subsequent conviction.

Amended Ch. 980, Stats. 1989. Effective January 1, 1990.

Infractions and Special Misdemeanors

42001. (a) Except as provided in () ¹ *this code*, a person convicted of an infraction for a violation of this code or of () ² *a* local ordinance adopted pursuant to this code shall be punished as follows:

- (1) By a fine not exceeding one hundred dollars (\$100).
- (2) For a second infraction occurring within one year of a prior infraction that resulted in a conviction, a fine not exceeding two hundred dollars (\$200).
- (3) For a third or subsequent infraction occurring within one year of two or more prior infractions () ³ *that* resulted in convictions, a fine not exceeding two hundred fifty dollars (\$250).

(b) () ⁴ A pedestrian convicted of an infraction for a violation of this code or any local ordinance adopted pursuant to this code shall be punished by a fine not exceeding fifty dollars (\$50).

(c) A person convicted of a violation of subdivision (a) or (b) of Section 27150.3 shall be punished by a fine of two hundred fifty dollars (\$250), and a person convicted of a violation of subdivision (c) of Section 27150.3 shall be punished by a fine of one thousand dollars (\$1,000).

(d) Notwithstanding any other provision of law, a local public entity that employs peace officers, as designated under Chapter 4.5 (commencing with Section 830) of Title 3 of Part 2 of the Penal Code, the California State University, and the

University of California may, by ordinance or resolution, establish a schedule of fines applicable to infractions committed by bicyclists within its jurisdiction. () ⁵ A fine, including all penalty assessments and court costs, established pursuant to this subdivision shall not exceed the maximum fine, including penalty assessment and court costs, otherwise authorized by this code for that violation. If a bicycle fine schedule is adopted, it shall be used by the courts having jurisdiction over the area within which the ordinance or resolution is applicable instead of the fines, including penalty assessments and court costs, otherwise applicable under this code.

Amended Sec. 3, Ch. 852, Stats. 1997. Effective January 1, 1998.
Amended Sec. 4, Ch. 841, Stats. 1999. Effective January 1, 2000.
Amended Sec. 13, Ch. 833, Stats. 2000. Effective January 1, 2001.
Amended Sec. 7.5, Ch. 555, Stats. 2003. Effective January 1, 2004.
Amended Sec. 2, Ch. 391, Stats. 2004. Effective January 1, 2005.
Amended Sec. 3, Ch. 166, Stats. 2005. Effective January 1, 2006.
Amended Sec. 3, Ch. 900, Stats. 2006. Effective January 1, 2007. Super-sedes Ch. 898, 899.

The 2006 amendment added the italicized material, and at the point(s) indicated, deleted the following:

1. "subdivision (e) of Section 21464, or Section 42000.5, 42001.1, 42001.2, 42001.3, 42001.5, 42001.7, 42001.8, 42001.9, 42001.11, 42001.12, 42001.13, 42001.14, 42001.15, 42001.16, or subdivision (a) of Section 42001.17, Section 42001.18, or Section 42001.20, or subdivision (b), (c), or (d) of this section, or Article 2 (commencing with Section 42030), every"

2. "any"

3. "which"

4. "Every person convicted of a misdemeanor violation of Section 2800, 2801, or 2803, insofar as they affect failure to stop and submit to inspection of equipment or for an unsafe condition endangering any person, shall be punished as follows:

(1) By a fine not exceeding fifty dollars (\$50) or imprisonment in the county jail not exceeding five days.

(2) For a second conviction within a period of one year, a fine not exceeding one hundred dollars (\$100) or imprisonment in the county jail not exceeding 10 days, or both that fine and imprisonment.

(3) For a third or any subsequent conviction within a period of one year, a fine not exceeding five hundred dollars (\$500) or imprisonment in the county jail not exceeding six months, or both that fine and imprisonment."

5. "Any"

Intersections

42001.1. (a) Every person convicted of an infraction for a violation of Section 2815 or a violation of subdivision (a) or (b) of Section 22526 at an intersection posted pursuant to subdivision (d) of Section 22526 shall be punished as follows:

(1) For a first conviction, a fine of not less than fifty dollars (\$50) nor more than one hundred dollars (\$100).

(2) For a second conviction within a period of one year, a fine of not less than one hundred dollars (\$100) nor more than two hundred dollars (\$200).

(3) For a third or any subsequent conviction within a period of two years, a fine of not less than two hundred fifty dollars (\$250) nor more than five hundred dollars (\$500).

(b) In addition to the fine specified in subdivision (a), the court may order the department to suspend the driver's license for up to 30 days of any person convicted of a third or any subsequent conviction of Section 2815 within a period of two years, and the department shall suspend the license for the period of time so ordered.

Amended Sec. 53, Ch. 724, Stats. 1999. Effective January 1, 2000.

Amended Sec. 7, Ch. 716, Stats. 2005. Effective January 1, 2006.

Violation of Exhaust Standards

42001.2. (a) A person convicted of an infraction for a violation of Section 27153.5 with a motor vehicle having a manufacturer's maximum gross vehicle weight rating of 6,001 or more pounds is punishable by a fine for the first offense of not less than two hundred fifty dollars (\$250) and

not more than two thousand five hundred dollars (\$2,500), and for a second or subsequent offense within one year of not less than five hundred dollars (\$500) and not more than five thousand dollars (\$5,000).

(b) A person convicted of an infraction for a second or subsequent violation of Section 27153, or a second or subsequent violation of 27153.5, with a motor vehicle having a manufacturer's maximum gross vehicle weight rating of less than 6,001 pounds, is punishable by a fine of not less than one hundred thirty-five dollars (\$135) nor more than two hundred eighty-five dollars (\$285).

(c) Notwithstanding Section 40616, the penalties in subdivision (b) apply when a person is guilty of willfully violating a written promise to correct, or willfully failing to deliver proof of correction, as prescribed in Section 40616, when an offense described in subdivision (b) was the violation for which the notice to correct was issued and the person was previously convicted of the same offense, except that costs of repair shall be limited to those specified in Section 44017 of the Health and Safety Code.

(d) Notwithstanding any other provision of law and subject to Section 1463.15 of the Penal Code, revenues collected from fines and forfeitures imposed under this section shall be allocated as follows: 15 percent to the county in which the prosecution is conducted, 10 percent to the prosecuting agency, 25 percent to the enforcement agency, except the Department of the California Highway Patrol, and 50 percent to the air quality management district or air pollution control district in which the infraction occurred, to be used for programs to regulate or control emissions from vehicular sources of air pollution. If the enforcement agency is the Department of the California Highway Patrol, the revenues shall be allocated 25 percent to the county in which the prosecution is conducted, 25 percent to the prosecuting agency, and 50 percent to the air quality management district or air pollution control district in which the infraction occurred. If no prosecuting agency is involved, the revenues that would otherwise be allocated to the prosecuting agency shall instead be allocated to the air quality management district or air pollution control district in which the infraction occurred.

(e) For the purposes of subdivisions (a), (b), and (c), a second or subsequent offense does not include an offense involving a different motor vehicle.

Amended Ch. 1243, Stats. 1992. Effective September 30, 1992.

Amended Sec. 4, Ch. 482, Stats. 2003. Effective January 1, 2004.

Driving Logs and Hours: Violation of Regulations

42001.3. (a) Violations of Section 34506.3, with respect to any regulation adopted under Section 34501 relative to the maintenance of driving logs, shall be punishable by a fine of not more than five hundred dollars (\$500).

(b) Violations of subdivision (a) of Section 34506, with respect to any regulation adopted under Section 34501 relative to drivers' hours of service, shall be punishable by a fine of not less than five hundred dollars (\$500) nor more than one thousand dollars (\$1,000). In addition, the violations may be punishable by imprisonment in the county jail for not more than six months.

Amended Ch. 631, Stats. 1988. Effective January 1, 1989.

Transportation of Animals

42001.4. Every person convicted of an infraction for violation of Section 23117 shall be punished as follows:

(a) By a fine of not less than fifty dollars (\$50) nor more than one hundred dollars (\$100).

(b) For a second infraction occurring within one year of a prior infraction which resulted in a conviction, a fine of not less than seventy-five dollars (\$75) nor more than two hundred dollars (\$200).

(c) For a third or any subsequent infraction occurring within one year of two or more prior infractions which resulted in convictions, a fine of not less than one hundred dollars (\$100) nor more than two hundred fifty dollars (\$250).

Added Ch. 224, Stats. 1987. Effective January 1, 1988.

Parking in Space Designated for Disabled Persons, Curbs, and Ramps

42001.5. (a) A person convicted of an infraction for a violation of subdivision (i) or (l) of Section 22500, or of Section 22522, shall be punished by a fine of not less than two hundred fifty dollars (\$250).

(b) No part of any fine imposed under this section may be suspended, except the court may suspend that portion of the fine above one hundred dollars (\$100).

(c) A fine imposed under this section may be paid in installments if the court determines that the defendant is unable to pay the entire amount in one payment.

Amended Sec. 8, Ch. 555, Stats. 2003. Effective January 1, 2004.

Zero-Emission Vehicle: Parking Violation Fine

42001.6. Every person convicted of an infraction for a violation of Section 22511.1 is punishable by a fine of one hundred dollars (\$100).

No part of any fine imposed shall be suspended, except the court may suspend that portion of the fine above twenty-five dollars (\$25) for a violation of Section 22511.1 if the person convicted possessed at the time of the offense, but failed to display, a valid zero-emission vehicle decal identification issued pursuant to subdivisions (a) and (b) of Section 5205.5. The fine may be paid in installments if the court determines that the defendant is unable to pay the entire amount in one payment.

Added Sec. 6, Ch. 640, Stats. 2002. Effective January 1, 2003.

Littering

42001.7. (a) Every person convicted of a violation of Section 23111 or 23112, or subdivision (a) of Section 23113, shall be punished by a mandatory fine of not less than one hundred dollars (\$100) nor more than one thousand dollars (\$1,000) upon a first conviction, by a mandatory fine of not less than five hundred dollars (\$500) nor more than one thousand dollars (\$1,000) upon a second conviction, and by a mandatory fine of not less than seven hundred fifty dollars (\$750) nor more than one thousand dollars (\$1,000) upon a third or subsequent conviction.

In no case may the court order imprisonment in the county jail for a violation punishable under this subdivision, unless imprisonment is ordered pursuant to Section 166 of the Penal Code.

(b) The court shall, in addition to the fines imposed pursuant to subdivision (a), order the offender to pick up litter or clean up graffiti at a time and place within the

jurisdiction of the court as follows:

(1) For a first conviction punished pursuant to subdivision (a), the court shall require the offender to pick up litter or clean up graffiti for not less than eight hours.

(2) For a second conviction punished pursuant to subdivision (a), the court shall require the offender to pick up litter or clean up graffiti for not less than 16 hours.

(3) For a third or subsequent conviction punished pursuant to subdivision (a), the court shall require the offender to pick up litter or clean up graffiti for not less than 24 hours.

(c) It is the intent of the Legislature that persons convicted of highway littering be required to bear the penalty for their actions. Therefore, the court may not suspend the mandatory fines required by subdivision (a) except in unusual cases where the interest of justice would best be served by suspension of the fine. If the court suspends imposition of any fine required by subdivision (a), it shall, as a condition of that suspension, require the offender to pick up litter or clean up graffiti at a time and place within the jurisdiction of the court for not less than eight hours for every one hundred dollars (\$100) of fine suspended. The court may not suspend the order to pick up litter or clean up graffiti required by this subdivision or subdivision (b) except in unusual cases where the interest of justice would best be served by suspension of that order.

Amended Ch. 982, Stats. 1990. Effective January 1, 1991.

Unregistered Vehicle

42001.8. Every person convicted of an infraction for a violation of Section 4000 shall be punished by a fine of not less than fifty dollars (\$50) and not more than two hundred fifty dollars (\$250).

Added Ch. 1126, Stats. 1985. Effective January 1, 1986.

Operating Modified Motorized Bicycle on Highway

42001.9. Every person convicted of an infraction for a violation of Section 23135 shall be punished by a fine of fifty dollars (\$50).

Added Ch. 421, Stats. 1978. Effective January 1, 1979.

Unidentified Off-Highway Vehicle

42001.10. Every person convicted for a violation of Section 38020 shall be punished by a fine of not less than fifty dollars (\$50) for a first offense, and not more than two hundred fifty dollars (\$250) for every subsequent offense.

Amended and renumbered (from 42001.9) Ch. 160, Stats. 1988. Effective January 1, 1989.

Exclusive or Preferential Use Lanes

42001.11. Every person convicted of an infraction for a violation of Section 21655.5 or 21655.8 shall be punished as follows:

(a) For a first conviction, a fine of not less than one hundred dollars (\$100), nor more than one hundred fifty dollars (\$150).

(b) For a second conviction within a period of one year, a fine of not less than one hundred fifty dollars (\$150), nor more than two hundred dollars (\$200).

(c) For a third or any subsequent conviction within a period of two years, a fine of not less than two hundred fifty dollars (\$250), nor more than five hundred dollars (\$500).

Added Ch. 1054, Stats. 1988. Effective January 1, 1989.

Emergency Vehicles: Yield Right of Way

42001.12. Every person convicted of an infraction for a violation of Section 21806 shall be punished as follows:

(a) For a first conviction, by a fine of not less than one hundred dollars (\$100) nor more than two hundred fifty dollars (\$250).

(b) For a second conviction within one year, by a fine of not less than one hundred fifty dollars (\$150) nor more than five hundred dollars (\$500).

(c) For a third or any subsequent conviction within three years, by a fine of not less than two hundred fifty dollars (\$250) nor more than five hundred dollars (\$500).

Added Ch. 13, Stats. 1991. Effective February 13, 1991.

Unlawful Parking in Disabled Space: Imposition of Fine

42001.13. (a) A person convicted of an infraction for a violation of Section 22507.8 shall be punished by a fine of not less than two hundred fifty dollars (\$250).

(b) The court may suspend the imposition of the fine if the person convicted possessed at the time of the offense, but failed to display, a valid special identification license plate issued pursuant to Section 5007 or a distinguishing placard issued pursuant to Section 22511.55 or 22511.59.

(c) A fine imposed under this section may be paid in installments if the court determines that the defendant is unable to pay the entire amount in one payment.

Added Sec. 9, Ch. 555, Stats. 2003. Effective January 1, 2004.

Disconnecting, Modifying, or Altering a Pollution Control Device

42001.14. (a) Every person convicted of an infraction for the offense of disconnecting, modifying, or altering a required pollution control device in violation of Section 27156 shall be punished as follows:

(1) For a first conviction, by a fine of not less than fifty dollars (\$50), nor more than one hundred dollars (\$100).

(2) For a second or subsequent conviction, by a fine of not less than one hundred dollars (\$100), nor more than two hundred fifty dollars (\$250).

(b) (1) The fines collected under subdivision (a) shall be allocated pursuant to subdivision (d) of Section 42001.2.

(2) The amounts allocated pursuant to paragraph (1) to the air pollution control district or air quality management district in which the infraction occurred shall first be allocated to the State Air Resources Board and the Bureau of Automotive Repair to pay the costs of the state board and the bureau under Article 8 (commencing with Section 44080) of Chapter 5 of Part 5 of Division 26 of the Health and Safety Code.

(3) The funds collected under subdivision (a) which are not required for purposes of paragraph (2) shall be used for the enforcement of Section 27156 or for the implementation of Article 8 (commencing with Section 44080) of Chapter 5 of Part 5 of Division 26 of the Health and Safety Code.

Added Ch. 972, Stats. 1992. Effective January 1, 1993.

Traffic Lights: Infractions: Penalty

42001.15. Every person convicted of an infraction for a violation of subdivision (a) or (c) of Section 21453, subdivision (c) of Section 21454, or subdivision (a) of Section 21457 shall be punished by a fine of one hundred dollars (\$100).

Added Sec. 4, Ch. 852, Stats. 1997. Effective January 1, 1998.

Railroad Grade Crossing: Infractions

42001.16. (a) Every person convicted of an infraction for a violation of subdivision (c) of Section 21752, subdivision (c) of Section 22526, or Section 22450, involving railroad grade crossings, or Section 22451 or 22452 shall be punished as follows:

(1) For the first infraction, by a fine of one hundred dollars (\$100).

(2) For a second infraction of any of the offenses described in this subdivision occurring within one year of a prior infraction that resulted in a conviction, by a fine not exceeding two hundred dollars (\$200).

(3) For a third or any subsequent infraction of any of the offenses described in this subdivision occurring within one year of two or more prior infractions that resulted in convictions, by a fine not exceeding two hundred fifty dollars (\$250).

(b) In addition to the fine imposed pursuant to subdivision (a), a court, in a county in which Section 369b of the Penal Code applies, may require the person to attend a traffic school as described in Section 369b of the Penal Code.

Added Sec. 5, Ch. 841, Stats. 1999. Effective January 1, 2000.
Amended Sec. 8, Ch. 716, Stats. 2005. Effective January 1, 2006.

Failure to Stop for Pedestrian: Penalties

42001.17. Notwithstanding any other provision of law, every person convicted of an infraction for a violation of Section 21951 shall be punished as follows:

(a) For the first infraction, by a fine of one hundred dollars (\$100).

(b) For a second infraction for a violation of Section 21951 occurring within one year of a prior infraction of violating of that section that resulted in a conviction, by a fine not exceeding two hundred dollars (\$200), as provided in paragraph (2) of subdivision (a) of Section 42001.

(c) For a third or any subsequent infraction for a violation of Section 21951 occurring within one year of two or more prior infractions of violating that section that resulted in convictions, by a fine not exceeding two hundred fifty dollars (\$250), as provided in paragraph (3) of subdivision (a) of Section 42001.

Added Sec. 14, Ch. 833, Stats. 2000. Effective January 1, 2001.

Right-of-Way Violations: Penalties

42001.18. Notwithstanding any other provision of law, every person convicted of an infraction for a violation of Section 21971 shall be punished as follows:

(a) For the first infraction, by a fine of two hundred twenty dollars (\$220).

(b) For a second infraction for a violation of Section 21971 occurring within one year of a prior violation of that section that resulted in a conviction, by a fine of three hundred twenty dollars (\$320).

(c) For a third or any subsequent infraction for a violation of Section 21971 occurring within one year of two or more prior infractions of violating that section that resulted in convictions by a fine of three hundred seventy dollars (\$370).

Added Sec. 15, Ch. 833, Stats. 2000. Effective January 1, 2001.

Unsafe Operation of Motor Vehicle

42001.19. *Notwithstanding any other provision of law, a person convicted of a violation of Section 21070*

is punishable, as follows:

(a) For a violation involving bodily injury, by a fine of seventy dollars (\$70).

(b) For a violation involving great bodily injury, as defined in Section 12022.7 of the Penal Code, by a fine of ninety-five dollars (\$95).

Added Sec. 5, Ch. 898, Stats. 2006. Effective January 1, 2007.

Vehicles: Refuse or Garbage Truck: Horn: Camera: Penalties

42001.20. Notwithstanding any other provision of law, a person who violates subdivision (b) or (c) of Section 27000 is punishable as follows:

(a) By a fine of one hundred fifty dollars (\$150).

(b) For a second infraction occurring within one year of a prior infraction that resulted in a conviction, a fine not exceeding two hundred dollars (\$200).

(c) For a third or any subsequent infraction occurring within one year of two or more prior infractions that resulted in convictions, a fine, not exceeding two hundred fifty dollars (\$250).

Added Sec. 4, Ch. 166, Stats. 2005. Effective January 1, 2006.

Person Under 21: DUI Penalties

42001.25. *Notwithstanding any other provision of law, a person who violates Section 23140 is punishable as follows:*

(a) By a fine of one hundred dollars (\$100).

(b) For a second infraction occurring within one year of a prior infraction that resulted in a conviction, a fine of two hundred dollars (\$200).

(c) For a third or any subsequent infraction occurring within one year of two or more prior infractions that resulted in convictions, a fine of three hundred dollars (\$300).

Added Sec. 3, Ch. 899, Stats. 2006. Effective January 1, 2007.

General Misdemeanors

42002. Unless a different penalty is expressly provided by this code, every person convicted of a misdemeanor for a violation of any of the provisions of this code shall be punished by a fine of not exceeding one thousand dollars (\$1,000) or by imprisonment in the county jail for not exceeding six months, or by both such fine and imprisonment.

Amended Ch. 1092, Stats. 1983. Effective September 26, 1983. Operative January 1, 1984.

Failure to Submit to Inspection: Penalty

42002.1. *A person convicted of a misdemeanor violation of Section 2800, 2801, or 2803, insofar as it affects a failure to stop and submit to inspection of equipment or for an unsafe condition endangering a person, shall be punished as follows:*

(a) By a fine not exceeding fifty dollars (\$50) or imprisonment in the county jail not exceeding five days.

(b) For a second conviction within a period of one year, a fine not exceeding one hundred dollars (\$100) or imprisonment in the county jail not exceeding 10 days, or both that fine and imprisonment.

(c) For a third or a subsequent conviction within a period of one year, a fine not exceeding five hundred dollars (\$500) or imprisonment in the county jail not exceeding six months, or both that fine and

imprisonment.

Added Sec. 4, Ch. 900, Stats. 2006. Effective January 1, 2007. Supersedes Ch. 898, 899.

Removal of Identification Mark or Number: Penalty

42002.4. A violation of Section 10751 shall be punished by imprisonment in the county jail not exceeding six months if the value of the property does not exceed four hundred dollars (\$400), and by imprisonment in the county jail not exceeding one year if the value of the property is more than four hundred dollars (\$400).

Added Ch. 408, Stats. 1990. Effective January 1, 1991.

Theft of Vehicle Modified For Use by Disabled Persons

42002.5. Notwithstanding Section 42002, every person convicted of a violation of Section 10852 or 10853 involving a vehicle that has been modified for the use of a disabled veteran or any other disabled person and that displays a special identification license plate issued pursuant to Section 5007 or a distinguishing placard issued pursuant to Section 22511.55 or 22511.59, if those facts are known or should reasonably have been known to the person, shall be punished by a fine of not more than two thousand dollars (\$2,000) or by imprisonment in the county jail for not more than one year, or by both the fine and imprisonment.

Amended Ch. 1149, Stats. 1994. Effective January 1, 1995.

Payment of Fines and Court and Other Costs

42003. (a) A judgment that a person convicted of an infraction be punished by a fine may also provide for the payment to be made within a specified time or in specified installments. A judgment granting a defendant time to pay the fine shall order that if the defendant fails to pay the fine or any installment thereof on the date that it is due, he or she shall appear in court on that date for further proceedings. Willful violation of the order is punishable as contempt.

(b) A judgment that a person convicted of any other violation of this code be punished by a fine may also order, adjudge, and decree that the person be imprisoned until the fine is satisfied. In all of these cases, the judgment shall specify the extent of the imprisonment which shall not exceed one day for every thirty dollars (\$30) of the fine, nor extend in this case beyond the term for which the defendant might be sentenced to imprisonment for the offense of which he or she was convicted.

(c) In any case when a person appears before a traffic referee or judge of the superior court for adjudication of a violation of this code, the court, upon request of the defendant, shall consider the defendant's ability to pay. Consideration of a defendant's ability to pay may include his or her future earning capacity. A defendant shall bear the burden of demonstrating lack of his or her ability to pay. Express findings by the court as to the factors bearing on the amount of the fine shall not be required. The reasonable cost of these services and of probation shall not exceed the amount determined to be the actual average cost thereof. The court shall order the defendant to appear before a county officer designated by the court to make an inquiry into the ability of the defendant to pay all or a portion of those costs or the court or traffic referee may make this determination at a hearing. At that hearing, the defendant shall be entitled to have, but shall not be limited to, the opportunity to be heard in person,

to present witnesses and other documentary evidence, to confront and cross-examine adverse witnesses, to disclosure of the evidence against him or her, and to a written statement of the findings of the court or the county officer. If the court determines that the defendant has the ability to pay all or part of the costs, the court shall set the amount to be reimbursed and order the defendant to pay that sum to the county in the manner in which the court believes reasonable and compatible with the defendant's financial ability; or, with the consent of a defendant who is placed on probation, the court shall order the probation officer to set the amount of payment, which shall not exceed the maximum amount set by the court, and the manner in which the payment shall be made to the county. In making a determination of whether a defendant has the ability to pay, the court shall take into account the amount of any fine imposed upon the defendant and any amount the defendant has been ordered to pay in restitution.

The court may hold additional hearings during the probationary period. If practicable, the court or the probation officer shall order payments to be made on a monthly basis. Execution may be issued on the order in the same manner as a judgment in a civil action. The order to pay all or part of the costs shall not be enforced by contempt.

A payment schedule for reimbursement of the costs of presentence investigation based on income shall be developed by the probation department of each county and approved by the presiding judge of the superior court.

(d) The term "ability to pay" means the overall capability of the defendant to reimburse the costs, or a portion of the costs, of conducting the presentence investigation, preparing the presentence report, and probation, and includes, but is not limited to, all of the following regarding the defendant:

(1) Present financial position.

(2) Reasonably discernible future financial position. In no event shall the court consider a period of more than six months from the date of the hearing for purposes of determining reasonably discernible future financial position.

(3) Likelihood that the defendant will be able to obtain employment within the six-month period from the date of the hearing.

(4) Any other factors that may bear upon the defendant's financial capability to reimburse the county for the costs.

(e) At any time during the pendency of the judgment rendered according to the terms of this section, a defendant against whom a judgment has been rendered may petition the rendering court to modify or vacate its previous judgment on the grounds of a change of circumstances with regard to the defendant's ability to pay the judgment. The court shall advise the defendant of this right at the time of rendering of the judgment.

Amended Sec. 605, Ch. 784, Stats. 2002. Effective January 1, 2003.

Determination of Penalty

42004. For the purpose of determining the penalty to be imposed pursuant to this code, the court may consider a written report from the Department of Motor Vehicles containing information from its records showing prior convictions; and the communication is prima facie evidence of such convictions, if the defendant admits them, regardless of

whether or not the complaint commencing the proceedings has alleged prior convictions.

For the purpose of this chapter a prior bail forfeiture shall be deemed to be a conviction of the offense charged.

Repealed and added Ch. 1192, Stats. 1968. Operative January 1, 1969.

24-Hour Suspension of Sentence

42004.5. Upon conviction of any violation of any provision of this code, other than a felony violation and except this section, execution of sentence of imprisonment in the county jail shall be suspended, at the request of the convicted person, for a period of 24 hours, unless the judge determines that the person would not return. If, prior to the end of such period, the person does not deliver himself into custody for commencement of the execution of such sentence, his failure to appear shall constitute a misdemeanor.

Added Ch. 1184, Stats. 1973. Effective January 1, 1974.

Court-Ordered Driving Instruction

42005. (a) The court may order or permit a person convicted of a traffic violation to attend a traffic violator school licensed pursuant to Chapter 1.5 (commencing with Section 11200) of Division 5.

(b) In lieu of adjudicating a traffic offense committed by a person who holds a noncommercial class C, class M1, or class M2 driver's license, and with the consent of the defendant, the court may order the person to attend a licensed traffic violator school, a licensed driving school, or any other court-approved program or driving instruction.

(c) Pursuant to Title 49 of the Code of Federal Regulations, the court may not order or permit a person who holds a class A, class B, or commercial class C driver's license to complete a licensed traffic violator school, a licensed driving school, or any other court-approved program of driving instruction in lieu of adjudicating any traffic offense committed by the holder of a class A, class B, or commercial class C driver's license.

(d) The court may not order or permit a person, regardless of the driver's license class, to complete a licensed traffic violator school, a licensed driving school, or any other court-approved program of driving instruction in lieu of adjudicating an offense if that offense had occurred in a commercial motor vehicle, as defined in subdivision (b) of Section 15210.

(e) Except as otherwise provided in subdivision (f), a person so ordered may choose the traffic violator school the person will attend. The court shall make available to each person subject to that order the current list of traffic violator schools published by the department pursuant to Section 11205.

(f) In those counties where, prior to January 1, 1985, one or more individual courts, or the county acting on behalf of one or more individual courts, contracted for the provision of traffic safety instructional services to traffic violators referred by the court pursuant to a pretrial diversion program, the courts may restrict referrals under this section to those schools for traffic violators or licensed driving schools that are under contract with the court or with the county to provide traffic safety instructional services for persons referred pursuant to subdivision (a).

(g) A county described in Section 28023 of the

Government Code may continue to provide the program authorized by this section in accordance with the provisions of current and future contracts as may be amended and approved by the individual courts within that county and the county shall be exempt from state regulations relative to maximum classroom attendance.

(h) Notwithstanding subdivisions (f) and (g), a court in the counties described in those subdivisions shall comply with the prohibitions set forth in subdivisions (c) and (d).

(i) A person who willfully fails to comply with a court order to attend traffic violator school is guilty of a misdemeanor.

(j) This section shall become operative on September 20, 2005.

Amended Sec. 54, Ch. 724, Stats. 1999. Effective January 1, 2000.

Amended Sec. 31, Ch. 952, Stats. 2004. Effective January 1, 2005. Operative September 20, 2005.

Traffic Violator School Study: Participation

42005.1. The court may order any person designated to attend a traffic violator school to instead participate in a study of traffic violator schools licensed pursuant to Chapter 1.5 (commencing with Section 11200) of Division 5. The person's participation in that study constitutes attending a court-supervised program of traffic safety instruction for purposes of Section 42007.

Added Ch. 1354, Stats. 1990. Effective January 1, 1991.

Diversion Program as Alternative to Procedure Required Under Code: Prohibition

42005.3. Operative January 1, 1993, no local authority may allow a person who is alleged to have committed a traffic offense in violation of this code or an ordinance or resolution adopted under this code, to participate in a driver awareness or education program or in any other diversion program as an alternative to the procedure required to be followed under this code for alleged violations of this code.

This section does not apply to diversion programs for minors who commit infractions not involving a motor vehicle for which no fee is charged.

Added Ch. 1199, Stats. 1992. Effective September 15, 1992.

No Computation for Average Daily Attendance

42005.5. Notwithstanding Section 46300 or 84500 of the Education Code or any other provision of law, on and after September 1, 1985, attendance at a school for traffic violators ordered pursuant to Section 42005 shall not be included in computing the average daily attendance of any school district, community college district, or other public educational institution for purposes of allocation of state funds.

Added Ch. 959, Stats. 1985. Effective September 25, 1985.

Night Court Assessment

42006. (a) Except as provided in subdivision (c), there may be levied a special assessment in an amount equal to one dollar (\$1) for every fine and forfeiture, imposed and collected by any court which conducts a night session of the court, on all offenses involving a violation of a section of this code or any local ordinance adopted pursuant to this code, except offenses relating to parking.

(b) When a person makes a deposit of bail for an offense to which this section applies, in a case in which the person is

required to appear in a court which conducts a night session, the person making the deposit shall also deposit a sufficient amount to include the assessment prescribed in this section for forfeited bail. If bail is forfeited, the amount of the assessment shall be transmitted by the clerk of the court to the county treasury for disposition as prescribed by subdivision (d).

(c) If a court conducts sessions at two or more locations, the court may do either of the following:

(1) Levy assessments only on those persons who are required to appear at the location where night sessions are held.

(2) Levy assessments on persons who have the option to appear at a location where night court sessions are held and that location is within 25 miles of the location of the court where the person is otherwise required to appear, if the court prepares and submits a report to the Legislative Analyst on or before February 1, 1986, which itemizes the additional costs of the night court session or sessions for the calendar years of 1983, 1984, and 1985, and the revenues received from the assessment levied under subdivision (a) in those calendar years.

(d) After a determination by the court of the amount of the assessment due, the clerk of the court shall collect the amount and transmit it to the county treasury to be deposited in the night court session fund, and the money in the fund shall be expended by the county for maintaining courts in the county which have night sessions for traffic offenses.

(e) In any case where a person convicted of any offense to which this section applies is imprisoned until the fine is satisfied, the judge shall waive the penalty assessment.

Amended Ch. 613, Stats. 1991. Effective January 1, 1992.

Uniform Fee for Court-Ordered Driving Instruction

42007. (a) The clerk of the court shall collect a fee from every person who is ordered or permitted to attend a traffic violator school pursuant to Section 42005 or who attends any other court-supervised program of traffic safety instruction. The fee shall be in an amount equal to the total bail set forth for the eligible offense on the uniform countywide bail schedule. As used in this subdivision, "total bail" means the amount established pursuant to Section 1269b of the Penal Code in accordance with the Uniform Statewide Bail Schedule adopted by the Judicial Council, including all assessments, surcharges, and penalty amounts. Where multiple offenses are charged in a single notice to appear, the "total bail" is the amount applicable for the greater of the qualifying offenses. However, the court may determine a lesser fee under this subdivision upon a showing that the defendant is unable to pay the full amount.

The fee shall not include the cost, or any part thereof, of traffic safety instruction offered by the school or other program.

(b) Revenues derived from the fee collected under this section shall be deposited in accordance with Section 68084 of the Government Code in the general fund of the county and, as may be applicable, distributed as follows:

(1) In any county in which a fund is established pursuant to Section 76100 or 76101 of the Government Code, the sum of one dollar (\$1) for each fund so established shall be deposited with the county treasurer and placed in that fund.

(2) In any county that has established a Maddy Emergency Medical Services Fund pursuant to Section 1797.98a of the Health and Safety Code, an amount equal to the sum of each two dollars (\$2) for every seven dollars (\$7) that would have been collected pursuant to Section 76000 of the Government Code shall be deposited in that fund. Nothing in the act that added this paragraph shall be interpreted in a manner that would result in either of the following:

(A) The utilization of penalty assessment funds that had been set aside, on or before January 1, 2000, to finance debt service on a capital facility that existed before January 1, 2000.

(B) The reduction of the availability of penalty assessment revenues that had been pledged, on or before January 1, 2000, as a means of financing a facility which was approved by a county board of supervisors, but on January 1, 2000, is not under construction.

(3) The amount of the fee that is attributable to Section 70372 of the Government Code shall be transferred pursuant to subdivision (f) of that section.

(c) For fees resulting from city arrests, an amount equal to the amount of base fines that would have been deposited in the treasury of the appropriate city pursuant to paragraph (3) of subdivision (b) of Section 1463.001 of the Penal Code shall be deposited in the treasury of the appropriate city.

(d) As used in this section, "court-supervised program" includes, but is not limited to, any program of traffic safety instruction the successful completion of which is accepted by the court in lieu of adjudicating a violation of this code.

(e) The clerk of the court, in a county that offers traffic school shall include in any courtesy notice mailed to a defendant for an offense that qualifies for traffic school attendance the following statement:

NOTICE: If you are eligible and decide not to attend traffic school your automobile insurance may be adversely affected.

Amended Sec. 59, Ch. 850, Stats. 1997. Effective January 1, 1998.

Amended Sec. 2, Ch. 679, Stats. 1999. Effective January 1, 2000.

Amended Sec. 26, Ch. 592, Stats. 2003. Effective January 1, 2004.

Amended Sec. 201, Ch. 193, Stats. 2004. Effective January 1, 2005.

Traffic Violator School Fee: Allocation: County General Fund

42007.1. (a) The fee collected by the clerk pursuant to subdivision (a) of Section 42007 shall be in an amount equal to the total bail set forth for the eligible offense on the uniform countywide bail schedule plus twenty-four dollars (\$24).

(b) Notwithstanding subdivision (b) of Section 42007, the revenue from the twenty-four dollar (\$24) fee collected under this section shall be deposited in the county general fund.

Added Sec. 60, Ch. 850, Stats. 1997. Effective January 1, 1998. Supersedes Sec. 4, Ch. 703.

Traffic Violator School Fee: Allocation

42007.3. (a) Notwithstanding Section 42007, revenues derived from fees collected under Section 42007 from each person required or permitted to attend traffic violator school pursuant to Section 42005 as a result of a violation of subdivision (a) or (c) of Section 21453, subdivision (c) of Section 21454, or subdivision (a) of Section 21457 shall be allocated as follows:

(1) The first 30 percent of the amount collected shall be

allocated to the general fund of the city or county in which the offense occurred.

(2) The balance of the amount collected shall be deposited by the county treasurer under Section 42007.

(b) This section does not apply to the additional twenty-four dollars (\$24) collected under subdivision (a) of Section 42007.1.

Added Sec. 5, Ch. 852, Stats. 1997. Effective January 1, 1998.

Traffic School Fees: Allocation

42007.4. (a) Notwithstanding Section 42007, revenues derived from fees collected under Section 42007 from each person required or permitted to attend traffic violator school pursuant to Section 369b of the Penal Code as a result of a violation of subdivision (c) of Section 21752, involving railroad grade crossings, or Section 22451 or 22452 shall be allocated as follows:

(1) If the offense occurred in an area where a transit district or transportation commission established under Division 12 (commencing with Section 130000) of the Public Utilities Code provides rail transportation, the first 30 percent of the amount collected shall be allocated to the general fund of that transit district or transportation commission to be used only for public safety and public education purposes relating to railroad grade crossings.

(2) If there is no transit district or transportation commission providing rail transportation in the area where the offense occurred, the first 30 percent of the amount collected shall be allocated to the general fund of the county in which the offense occurred, to be used only for public safety and public education purposes relating to railroad grade crossings.

(3) The balance of the amount collected shall be deposited by the county treasurer under Section 1463 of the Penal Code.

(4) A transit district, transportation commission, or a county that is allocated funds pursuant to paragraph (1) or (2) shall provide public safety and public education relating to railroad grade crossings only to the extent that those purposes are funded by the allocations provided pursuant to paragraph (1) or (2).

(b) This section does not apply to the additional twenty-four dollars (\$24) collected under subdivision (a) of Section 42007.1.

Added Sec. 6, Ch. 841, Stats. 1999. Effective January 1, 2000.

County of Santa Barbara: Traffic Violator School Fees: Report: Alternative Local Funding Sources for Emergency Medical Services

42007.5. (a) Notwithstanding paragraph (2) of subdivision (b) of Section 42007, in Santa Barbara County, upon the establishment of a Maddy Emergency Medical Services Fund pursuant to Section 1797.98a of the Health and Safety Code, the amount that would have been collected pursuant to Section 76104.1 of the Government Code shall be deposited in the Maddy Emergency Medical Services Fund established by the county pursuant to Section 1797.98a of the Health and Safety Code.

(b) The Board of Supervisors of the County of Santa Barbara shall report to the Legislature whether, and to the extent that, any actions are taken by the County of Santa Barbara to implement alternative local sources of funding.

(c) This section shall remain in effect only until () ***January 1, 2009, and as of that date is repealed.***

Added and repealed Sec. 4, Ch. 524, Stats. 2004. Effective January 1, 2005. Repeal operative January 1, 2007.

Amended Sec. 3, Ch. 768, Stats. 2006. Effective January 1, 2007.

The 2006 amendment added the italicized material, and at the point(s) indicated, deleted the following "January 1, 2007, and as of that date is repealed, unless a later enacted statute, that is enacted before January 1, 2007, deletes or extends that date."

NOTE: The preceding section shall remain in effect only until January 1, 2009, and as of that date is repealed.

State Amnesty Program: Delinquent Fines and Bail

42008. (a) Any county may operate an amnesty program for delinquent fines and bail imposed for an infraction or misdemeanor violation of the Vehicle Code, except parking violations of the Vehicle Code and violations of Section 23103, 23104, 23152, or 23153. The program shall be implemented by the courts in accordance with Judicial Council guidelines, and shall apply to infraction or misdemeanor violations of the Vehicle Code, except parking violations, upon which a fine or bail was delinquent on or before April 1, 1991.

(b) Under the amnesty program, any person owing a fine or bail due on or before April 1, 1991, that was imposed for an infraction or misdemeanor violation of the Vehicle Code, except violations of Section 23103, 23104, 23152, or 23153 or parking violations, may pay to the superior court the amount scheduled by the court, which shall be either (1) 70 percent of the total fine or bail or (2) the amount of one hundred dollars (\$100) for an infraction or five hundred dollars (\$500) for a misdemeanor. This amount shall be accepted by the court in full satisfaction of the delinquent fine or bail.

(c) No criminal action shall be brought against any person for a delinquent fine or bail paid under this amnesty program and no other additional penalties shall be assessed for the late payment of the fine or bail made under the amnesty program.

(d) Notwithstanding Section 1463 of the Penal Code, the total amount of funds collected by the courts pursuant to the amnesty program created by this section shall be deposited in the county treasury.

Amended Sec. 464, Ch. 931, Stats. 1998. Effective September 28, 1998.

Amended Sec. 606, Ch. 784, Stats. 2002. Effective January 1, 2003.

Amnesty Program

42008.5. (a) A county may establish a one-time amnesty program for fines and bail that have been delinquent for not less than six months as of the date upon which the program commences and were imposed for an infraction or misdemeanor violation of this code, except parking violations of this code and violations of Section 23103, 23104, 23152, or 23153.

(b) Any person owing a fine or bail that is eligible for amnesty under the program may pay to the superior or juvenile court the amount scheduled by the court, which shall be accepted by the court in full satisfaction of the delinquent fine or bail and shall be either of the following:

(1) Seventy percent of the total fine or bail.

(2) The amount of one hundred dollars (\$100) for an infraction or five hundred dollars (\$500) for a misdemeanor.

(c) The amnesty program shall be implemented by the courts of the county on a one-time basis and conducted in accordance with Judicial Council guidelines for a period of

not less than 120 days. The program shall operate not longer than six months from the date the court initiates the program.

(d) No criminal action shall be brought against any person for a delinquent fine or bail paid under the amnesty program and no other additional penalties, except as provided in Section 1214.1 of the Penal Code, shall be assessed for the late payment of the fine or bail made under the amnesty program.

(e) Notwithstanding Section 1463 of the Penal Code, the total amount of funds collected by the courts pursuant to the amnesty program shall be deposited in the county treasury until 150 percent of the cost of operating the program, excluding capital expenditures, have been so deposited. Thereafter, 37 percent of the amount of the delinquent fines and bail deposited in the county treasury shall be distributed by the county pursuant to Section 1464 of the Penal Code, 26 percent of the amount deposited shall be distributed by the county pursuant to Article 2 (commencing with Section 76100) of Chapter 12 of Title 8 of the Government Code, and the remaining 37 percent of the amount deposited shall be retained by the county.

(f) The deposit of fines and bails in the county treasury as described in subdivision (e) is limited to the amnesty program described in this section, and it is the intent of the Legislature that it shall not be considered a precedent with respect to affecting programs that receive funding pursuant to Section 1463 of the Penal Code.

(g) Each county participating in the program shall file, not later than six months after the termination of the program, a written report with the Assembly Committee on Judiciary and the Senate Committee on Judiciary. The report shall summarize the amount of money collected, operating costs of the program, distribution of funds collected, and when possible, how the funds were expended.

Amended Sec. 607, Ch. 784, Stats. 2002. Effective January 1, 2003.

Fines: Offenses Committed in Highway Construction or Maintenance Area

42009. (a) For any offense specified in subdivision (b), committed by the driver of a vehicle within a highway construction or maintenance area, during any time when traffic is regulated or restricted through or around that area pursuant to Section 21367, when the highway construction or maintenance is actually being performed in the area by workers acting in their official capacity, the fine, in a misdemeanor case, shall be double the amount otherwise prescribed. In an infraction case, the fine shall be one category higher than the penalty otherwise prescribed by the uniform traffic penalty schedule established pursuant to Section 40310.

(b) A violation of any of the following provisions is an offense which is subject to subdivision (a):

(1) Section 21367, relating to regulation of traffic at a construction site.

(2) Article 3 (commencing with Section 21450) of Chapter 2 of

Division 11, relating to obedience to traffic devices.

(3) Chapter 3 (commencing with Section 21650) of Division 11, relating to driving, overtaking, and passing.

(4) Chapter 4 (commencing with Section 21800) of

Division 11, relating to yielding the right-of-way.

(5) Chapter 6 (commencing with Section 22100) of Division 11, relating to turning and stopping and turn signals.

(6) Chapter 7 (commencing with Section 22348) of Division 11, relating to speed limits.

(7) Chapter 8 (commencing with Section 22450) of Division 11, relating to special traffic stops.

(8) Section 23103, relating to reckless driving.

(9) Section 23104, relating to reckless driving which results in bodily injury to another.

(10) Section 23109, relating to speed contests.

(11) Section 23152, relating to driving under the influence of alcohol or a controlled substance, or a violation of Section 23103, as specified in Section 23103.5, relating to alcohol-related reckless driving.

(12) Section 23153, relating to driving under the influence of alcohol or a controlled substance, which results in bodily injury to another.

(13) Section 23220, relating to drinking while driving.

(14) Section 23221, relating to drinking in a motor vehicle while on the highway.

(15) Section 23222, relating to driving while possessing an open alcoholic beverage container.

(16) Section 23223, relating to being in a vehicle on the highway while possessing an open alcoholic beverage container.

(17) Section 23224, relating to being a driver or passenger under the age of 21 possessing an open alcoholic beverage container.

(18) Section 23225, relating to being the owner or driver of a vehicle in which there is an open alcoholic beverage container.

(19) Section 23226, relating to being a passenger in a vehicle in which there is an open alcoholic beverage container.

(c) This section applies only when construction or maintenance work is actually being performed by workers, and there are work zone traffic control devices, traffic controls or warning signs, or any combination of those, to notify motorists and pedestrians of construction or maintenance workers in the area.

Added Ch. 674, Stats. 1993. Effective January 1, 1994.

Enhanced Penalties: Double Fine Zone

42010. (a) *For any offense specified in subdivision (b) that is committed by the driver of a vehicle within an area that has been designated as a Safety Enhancement-Double Fine Zone pursuant to Section 97 and following of the Streets and Highways Code, the fine, in a misdemeanor case, shall be double the amount otherwise prescribed, and, in an infraction case, the fine shall be one category higher than the penalty otherwise prescribed by the uniform traffic penalty schedule established pursuant to Section 40310.*

(b) *A violation of any of the following provisions is an offense that is subject to subdivision (a):*

(1) Chapter 3 (commencing with Section 21650) of Division 11, relating to driving, overtaking, and passing.

(2) *Chapter 7 (commencing with Section 22348) of Division 11, relating to speed limits.*

(3) *Section 23103, relating to reckless driving.*

(4) *Section 23104, relating to reckless driving that results in bodily injury to another.*

(5) *Section 23109, relating to speed contests.*

(6) *Section 23152, relating to driving under the influence of alcohol or a controlled substance, or a violation of Section 23103, as specified in Section 23103.5, relating to alcohol-related reckless driving.*

(7) *Section 23153, relating to driving under the influence of alcohol or a controlled substance, which results in bodily injury to another.*

(8) *Section 23220, relating to drinking while driving.*

(9) *Section 23221, relating to drinking in a motor vehicle while on the highway.*

(10) *Section 23222, relating to driving while possessing an open alcoholic beverage container.*

(11) *Section 23223, relating to being in a vehicle on the highway while possessing an open alcoholic beverage container.*

(12) *Section 23224, relating to being a driver or passenger under 21 years of age possessing an open alcoholic beverage container.*

(13) *Section 23225, relating to being the owner or driver of a vehicle in which there is an open alcoholic beverage container.*

(14) *Section 23226, relating to being a passenger in a vehicle in which there is an open alcoholic beverage container.*

(c) *This section applies only when traffic controls or warning signs have been placed pursuant to Section 97 or 97.1 of the Streets and Highways Code.*

(d) (1) *Notwithstanding any other provision of law, the enhanced fine imposed pursuant to this section shall be based only on the base fine imposed for the underlying offense and shall not include any other enhancements imposed pursuant to law.*

(2) *Notwithstanding any other provision of law, any additional penalty, forfeiture, or assessment imposed by any other statute shall be based on the amount of the base fine before enhancement or doubling and shall not be based on the amount of the enhanced fine imposed pursuant to this section.*

Added Sec. 3, Ch. 179, Stats. 2006. Effective January 1, 2007.

Article 2. Weight Violations

Weight Violation: Penalty

42030. (a) Every person convicted of a violation of any weight limitation provision of Division 15 (commencing with Section 35000), and every person convicted of a violation of Section 21461 with respect to signs provided pursuant to Section 35654 or 35752, and every person convicted of a violation of Section 40001 for requiring the operation of a vehicle upon a highway in violation of any provision referred to in this section shall be punished by a fine which equals the amounts specified in the following table:

| Pounds of excess weight | Fine |
|-------------------------|-------|
| 0- 1,000 | \$ 20 |

| | |
|-----------------|--------------|
| 1,001- 1,500 | 30 |
| 1,501- 2,000 | 40 |
| 2,001- 2,500 | 55 |
| 2,501- 3,000 | 85 |
| 3,001- 3,500 | 105 |
| 3,501- 4,000 | 125 |
| 4,001- 4,500 | 145 |
| 4,501- 5,000 | 175 |
| 5,001- 6,000 | .04 each lb. |
| 6,001- 7,000 | .06 each lb. |
| 7,001- 8,000 | .08 each lb. |
| 8,001-10,000 | .15 each lb. |
| 10,001 and over | .20 each lb. |

(b) No part of the penalties prescribed by this section shall be suspended for a conviction of any of the following:

(1) Section 40001 for requiring operation of a vehicle upon a highway in violation of any provision referred to in this section.

(2) Any provision referred to in this section when the amount of the weight exceeds 4,000 pounds.

(3) Any provision referred to in this section when a second or subsequent conviction of a violation thereof occurs within three years immediately preceding the violation charged.

(c) However, notwithstanding any other provision of this section, the court shall exercise discretion with respect to the imposition of the fine under this section for excess weight not exceeding 1,000 pounds if the load of the vehicle cited consisted entirely of field-loaded, unprocessed bulk agricultural or forest products or livestock being transported from the field to the first point of processing or handling.

(d) Notwithstanding any other provision of this section, the court may exercise discretion with respect to the imposition of the fine under this section if any applicable local permit was obtained prior to the court hearing and, at the time of issuance of the notice to appear, the motor carrier was transporting construction equipment or materials and a valid extra-legal load permit from the Department of Transportation was in effect.

Amended Sec. 1, Ch. 456, Stats. 1996. Effective January 1, 1997.

Declared Gross Vehicle Weight Limit Violations: Penalties

42030.1. (a) Every person convicted of a violation of any declared gross vehicle weight limitation provision of this code, shall be punished by a fine that equals the amounts specified in the following table:

| Pounds in Excess of the Declared Gross Vehicle Weight | Fine |
|---|--------|
| 1,001-1,500 | \$ 250 |
| 1,501-2,000 | 300 |
| 2,001-2,500 | 350 |
| 2,501-3,000 | 400 |
| 3,001-3,500 | 450 |
| 3,501-4,000 | 500 |
| 4,001-4,500 | 550 |
| 4,501-5,000 | 600 |
| 5,001-6,000 | 700 |
| 6,001-7,000 | 800 |
| 7,001-8,000 | 900 |
| 8,001-10,000 | 1,000 |
| 10,001 and over | 2,000 |

(b) No part of the penalties prescribed by this section shall

be suspended for a conviction of any of the following:

(1) Section 40001 for requiring operation of a vehicle upon a highway in violation of any provision referred to in this section.

(2) Any provision referred to in this section when a second or subsequent conviction of a violation thereof occurs within three years immediately preceding the violation charged.

Added Sec. 58, Ch. 861, Stats. 2000. Effective September 29, 2000. Operative December 31, 2001.

Weight and Axle or Wheel Weight

42031. Whenever the gross weight and any axle or wheel weight of a vehicle are in excess of the limits prescribed in this code, the excess weights shall be deemed one offense in violation of this code.

Garbage Vehicles: Weight Violations

42032. (a) In addition to any other fines and penalties, any local public agency which owns or operates vehicles used for the collection of garbage, refuse, or rubbish and which has, within any 90-day period, been convicted an excessive number of times for operating those vehicles in violation of any of the weight limitations set forth in Chapter 5 (commencing with Section 35550) of Division 15, taking into consideration the total number of trip routes for those vehicles which are normally scheduled in the same 90-day period, may be assessed a civil penalty not to exceed two thousand five hundred dollars (\$2,500) for each violation. Nothing in this section affects the legal standards, proof requirements, or penalty provisions of any other provision of the law.

(b) The penalties imposed by this section shall be assessed and recovered in a civil action brought by the Attorney General or by any district attorney or city attorney. Prior to undertaking a civil action, a reasonable effort for informal resolution of the problem of excessive violations shall be made by the applicable attorney. Penalties recovered shall be paid to the Treasurer for deposit in the State Highway Account in the State Transportation Fund and used, upon appropriation, for purposes of highway maintenance.

Added Ch. 88, Stats. 1990. Effective January 1, 1991.

CHAPTER 2. DISPOSITION OF FEES, FINES, AND FORFEITURES

Article 1. Fines and Forfeitures

Disposition by Cities and Other Local Entities

42200. (a) Of the total amount of fines and forfeitures received by a city under Section 1463 of the Penal Code that proportion which is represented by fines and forfeitures collected from any person charged with a misdemeanor under this code following arrest by an officer employed by a city, shall be paid into the treasury of the city and deposited in a special fund to be known as the "Traffic Safety Fund," and shall be used exclusively for official traffic control devices, the maintenance thereof, equipment and supplies for traffic law enforcement and traffic accident prevention, and for the maintenance, improvement, or construction of public streets, bridges, and culverts within the city, but the fund shall not be used to pay the compensation of traffic or other police officers. The fund may be used to pay the compensation of school crossing guards who are not regular full-time members of the police department of the city.

(b) For purposes of this section, "city" includes any city, city and county, district, including any enterprise special district, community service district, or county service area engaged in police protection activities as reported to the Controller for inclusion in the 1989–90 edition of the Financial Transactions Report Concerning Special Districts under the heading of Police Protection and Public Safety, authority, or other local agency (other than a county) which employs persons authorized to make arrests or to issue notices to appear or notices of violation which may be filed in court.

Amended Sec. 2, Ch. 285, Stats. 1995. Effective January 1, 1996.

Disposition by County

42201. (a) Of the total amount of fines and forfeitures received by a county under Section 1463.001 of the Penal Code, fines and forfeitures collected from any person charged with a misdemeanor under this code following arrest by any officer employed by the state or by the county shall be paid into the general fund of the county. However, the board of supervisors of the county may, by resolution, provide that a portion thereof be transferred into the road fund of the county.

(b) The board of supervisors of a county may enter into a contract with the Department of the California Highway Patrol for the purpose of providing adequate protection for school pupils who are required to cross heavily traveled streets, highways, and roadways in the unincorporated areas of the county. When requested, the Department of the California Highway Patrol may provide such service and the county shall reimburse the state for salaries and wages of crossing guards furnished by the Department of the California Highway Patrol pursuant to such contract, including any necessary retirement and general administrative costs and expenses in connection therewith, and may pay the costs thereof from amounts deposited in the road fund pursuant to this section.

(c) Fines and forfeitures received by a county under Section 1463.001 of the Penal Code may be used to pay the compensation of school crossing guards and necessary equipment costs and administrative costs.

(d) When requested by any county which had in effect on June 30, 1979, a contract with the Department of the California Highway Patrol, to provide protection for school pupils at school crossings, the department upon request of a county shall continue to administer such school crossing program until June 30, 1980. The county shall reimburse the Department of the California Highway Patrol for general administrative costs and expenses in connection therewith, except that, effective January 1, 1980, the crossing guards shall be furnished to the California Highway Patrol and such crossing guards shall be employees of the county, the county superintendent of schools, the affected school districts, or both the superintendent and the affected school districts, at the option of the board of supervisors of the county. Any salaries and wages of crossing guards, including necessary retirement and equipment costs and any administrative costs shall be paid or reimbursed by the county from amounts deposited in the road fund pursuant to this section.

(e) The board of supervisors may adopt standards for the provision of school crossing guards. The board has final

authority over the total cost of the school crossing guard program of any agency to be paid or reimbursed from amounts deposited in the road fund pursuant to this section. The board of supervisors may specify that a designated county officer, employee, or commissioner is to hire school crossing guards, or, in the alternative, the board may specify that any school district crossing guard program in unincorporated areas shall be maintained by the school districts desiring the program.

Amended Ch. 308, Stats. 1994. Effective July 21, 1994.

Additional Disposition by County

42201.1. Fines and forfeitures received by a county under Section 1463 of the Penal Code may be used to reimburse the state for the construction of platform scales and vehicle inspection facilities in the county.

Added Ch. 407, Stats. 1985. Effective July 30, 1985.

Disposition of Infraction Fines and Forfeitures

42201.5. Fines, forfeitures, and deposits of bail collected as a result of a charge or conviction of an infraction shall be deposited and distributed in the same manner as fines, forfeitures, and deposits of bail collected from a person charged with or convicted of a misdemeanor.

Added Ch. 1192, Stats. 1968. Operative January 1, 1969.

Refunds: Bail Deposits

42201.6. (a) A deposit of bail received with respect to an infraction violation of this code, or any local ordinance adopted pursuant to this code, including, but not limited to, a violation involving the standing or parking of a vehicle, shall be refunded by the agency which issued the notice of violation or the court within 30 days of a cancellation, dismissal or finding of not guilty of the offense charged.

(b) Multiple or duplicate deposits of bail or parking penalty shall be identified by the court or agency and refunded within 30 days of identification.

(c) Any amount to be refunded in accordance with subdivision (a) or (b) shall accrue interest, at the rate specified in Section 3289 of the Civil Code, on and after the 60th day of a cancellation, dismissal, or finding of not guilty or identification of multiple or duplicate deposits, and shall be refunded as soon as possible thereafter along with accrued interest.

Amended Ch. 290, Stats. 1989. Effective January 1, 1990.

Disobedience by Officials

42202. Failure, refusal, or neglect on the part of any judicial or other officer or employee receiving or having custody of any fine or forfeiture mentioned in this Article either before or after deposit in the respective fund to comply with the foregoing provisions of this Article is misconduct in office and ground for removal therefrom.

Disposition of Fines and Forfeitures for Violations on Certain County-Owned Premises

42203. Notwithstanding Section 42201 or 42201.5, 50 percent of all fines and forfeitures collected in a superior court upon conviction or upon the forfeiture of bail for violations of any provisions of the Vehicle Code, or of any local ordinance or resolution, relating to stopping, standing, or parking a vehicle, that have occurred upon the premises of facilities physically located in such county, but which are

owned by another county, which other county furnishes law enforcement personnel for the premises, shall be transmitted pursuant to this section to the county which owns the facilities upon which the violations occurred. The court receiving such moneys shall, once each month, transmit such moneys received in the preceding month to the county treasurer of the county in which the court is located. Once each month in which the county treasurer receives such moneys, the county treasurer shall transmit to the county which owns such facilities an amount equal to 50 percent thereof. The county owning such facilities shall, upon receipt of such moneys from the municipal court or superior court of the county in which the facilities are physically located, deposit such moneys in its county treasury for use solely in meeting traffic control and law enforcement expenses on the premises upon which the violations occurred.

This section shall not apply when the county in which such facilities are located performs all law enforcement functions with respect to such facilities.

Amended Sec. 465, Ch. 931, Stats. 1998. Effective September 28, 1998.

Amended Sec. 608, Ch. 784, Stats. 2002. Effective January 1, 2003.

Disposition of Off-Highway Vehicle Fines and Forfeitures

42204. Notwithstanding any other provisions of law, all fines and forfeitures collected for violations of Division 16.5 (commencing with Section 38000) shall be deposited in the appropriate fund in the county where the violation occurred and distributed in the same manner as specified in Section 42201.5, and shall be used for enforcing laws related to the operation of off-highway motor vehicles.

Amended Ch. 994, Stats. 1982. Effective January 1, 1983.

Amended Sec. 46, Ch. 563, Stats. 2002. Effective January 1, 2003.

Report, Remission, Deposit, and Transfer of Funds

42205. (a) Notwithstanding Chapter 3 (commencing with Section 42270), the department shall file, at least monthly with the Controller, a report of money received by the department pursuant to Section 9400 for the previous month and shall, at the same time, remit all money so reported to the Treasurer. On order of the Controller, the Treasurer shall deposit all money so remitted into the State Highway Account in the State Transportation Fund.

(b) The Legislature shall appropriate from the State Highway Account in the State Transportation Fund to the department and the Franchise Tax Board amounts equal to the costs incurred by each in performing their duties pursuant to Article 3 (commencing with Section 9400) of Chapter 6 of Division 3. The applicable amounts shall be determined so that the appropriate costs for registration and weight fee collection activities are appropriated between the recipients of revenues in proportion to the revenues that would have been received individually by those recipients if the total fee imposed under the Vehicle License Fee Law (Part 5 (commencing with Section 10701) of Division 2 of the Revenue and Taxation Code) was 2 percent of the market value of a vehicle. The remainder of the funds collected under Section 9400 and deposited in the account may be appropriated to the Department of Transportation, the Department of the California Highway Patrol, and the Department of Motor Vehicles for the purposes authorized

under Section 2 of Article XIX of the California Constitution.

Amended Sec. 2, Ch. 85, Stats. 1999. Effective January 1, 2000.
Amended Sec. 42, Ch. 211, Stats. 2004. Effective August 5, 2004.

Article 2. Refund of Fees and Penalties

Return After Rejection of Application

42230. Whenever any application made under this code is accompanied by any fee, except an application for an occupational license accompanied by a fee as specified in Section 9262, 9262.5, 11309, or 11820, or an application for a duplicate driver's license, as required by law, and the application is refused or rejected, the fees shall be returned to the applicant, except that, whenever any application is made for the first set of special plates under subdivision (a) of Section 9262 and the application is refused or rejected, the fee for the special plates only shall be returned to the applicant or, when application is made for the first set of special plates under subdivision (1) of Section 9264 and the application is refused or rejected, the fee for the special plates shall be returned to the applicant.

Amended Sec. 150, Ch. 124, Stats. 1996. Effective January 1, 1997.

Erroneous Collection of Fees

42231. Whenever any application is made under this code and the application is accompanied by any fee which is excessive or not legally due, or whenever the department in consequence of any error either of fact or of law as to the proper amount of any fee or any penalty thereon or as to the necessity of obtaining any privilege under this code collects any fee or penalty which is excessive, erroneous, or not legally due, the person who has paid the erroneous or excessive fee or penalty, or his agent on his behalf, may apply for and receive a refund of the amount thereof as provided in this article, or the department may refund the same within three years after the date of the payment or collection.

Amended Ch. 20, Stats. 1961. Effective September 15, 1961.

Application for Refund

42232. The application for refund shall be presented to the department in a format prescribed by the department within three years from the date of payment of the erroneous or excessive fee or penalty and shall identify the payment made and state the grounds upon which it is claimed that the payment was excessive or erroneous.

Amended Sec. 26, Ch. 787, Stats. 2000. Effective January 1, 2001.

Refund Procedures

42233. (a) Whenever any fee or penalty subject to refund under Section 42231 after application therefor has not been paid into the State Treasury, the department shall refund the fee or penalty.

(b) Whenever any fee or penalty subject to refund under Section 42231 after application therefor or Section 10901 of the Revenue and Taxation Code has been paid into the State Treasury to the credit, in whole or in part, of the Motor Vehicle License Fee Account in the Transportation Tax Fund (hereafter referred to in this section as the Motor Vehicle License Fee Account), or to the credit, in whole or in part, of the Motor Vehicle Account in the State Transportation Fund (hereafter referred to in this section as the Motor Vehicle Account) the department shall prepare a claim setting forth the facts pertaining to the fee or penalty sought to be

refunded, and the State Controller shall draw his warrant upon the account or accounts to which the fee or penalty was credited. In lieu of filing claims for refund against both the Motor Vehicle Account and the Motor Vehicle License Fee Account when an amount has been determined to be due from both accounts, the director may file a single claim with the State Controller, drawn against the Motor Vehicle Account covering the amount of both refunds, and the State Controller shall thereupon draw his warrant on the Motor Vehicle Account. At least quarterly, the director shall certify to the State Controller the amounts paid from the Motor Vehicle Account which are properly chargeable to the Motor Vehicle License Fee Account supported by such detail as the State Controller may require. Upon order of the State Controller, the amounts so required shall be transferred from the Motor Vehicle License Fee Account to the credit of the Motor Vehicle Account.

(c) This section is an appropriation of any and all amounts necessary to refund and repay any excessive or erroneous fees and penalties collected under this code, and the procedure prescribed in this Article for refunds shall be deemed a compliance with the requirements of the Government Code relating to the refund of excessive or erroneous fees or penalties.

Amended Ch. 669, Stats. 1978. Effective January 1, 1979.

Late Application for Refund

42235. Whenever the department collects any fee which is excessive or not legally due and application for the refund of the fee is not filed within the time prescribed by law because the applicant failed to receive from the department a certificate of registration for the vehicle upon which the refund of fee is sought, the director shall have the power to authorize the payment of a refund in such a case upon a proper showing by the applicant that the delay in applying for the refund was due to the failure to receive the certificate of registration within the statutory period allowed for making application for refund of fees.

CHAPTER 3. MOTOR VEHICLE ACCOUNT

Report and Deposit of Money

42270. (a) The Department of Motor Vehicles and the Department of the California Highway Patrol each shall file, at least monthly with the Controller, a report of money received by the department covering all fees for applications accepted by the department and all other moneys received by the department under this code and, at the same time, shall remit all money so reported to the Treasurer. On order of the Controller, the Treasurer shall deposit in the Motor Vehicle Account in the State Transportation Fund, into which is merged the Motor Vehicle Account in the Transportation Tax Fund, all moneys so reported and remitted.

Any reference in any law or regulation to the Motor Vehicle Fund, or to the Motor Vehicle Account in the Transportation Tax Fund, shall be deemed to refer to the Motor Vehicle Account in the State Transportation Fund, which is created by subdivision (a) of Section 42271.

(b) The amount of any penalties collected by the department pursuant to Sections 9553 and 9554 of this code and Sections 10770 and 10854 of the Revenue and Taxation

Code shall, for purposes of subdivision (a), be deemed to be a percentage of the weight fee, registration fee, and vehicle license fee obtained when applying the total of these fees collected, excluding use tax, against the individual weight fees, registration fees, and vehicle license fees collected on each application. Penalties which cannot be allocated in accordance with this subdivision shall be allocated according to subdivision (c).

(c) The amount of any penalties collected by the department, as provided in Sections 9553 and 9554 of this code and Sections 10770 and 10854 of the Revenue and Taxation Code which cannot be allocated in accordance with subdivision (b), shall, for the purposes of subdivision (a), be deemed to be a percentage of the total fees allocated under this section and under Section 11001 of the Revenue and Taxation Code equal to that percentage of the ratio based on the fees previously allocated under this section and under Section 11001 of the Revenue and Taxation Code in the fiscal year preceding the calendar year for which the penalties are to be allocated. That ratio shall be reevaluated periodically and shall be adjusted to reflect any change in the fee structure that may be provided in this code or in Part 5 (commencing with Section 10701) of Division 2 of the Revenue and Taxation Code.

(d) Whenever any fee paid to the department has not been allocated within one year of the date of collection, the fee shall be allocated to the Motor Vehicle License Fee Account in the Transportation Tax Fund, and the Motor Vehicle Account and the State Highway Account in the State Transportation Fund, in proportion to the revenue allocated to those accounts by the department in the previous fiscal year.

Amended Ch. 693, Stats. 1986. Effective January 1, 1987. Supersedes Ch. 248.

Support and Operation of Departments

42271. (a) The Motor Vehicle Account in the State Transportation Fund is hereby created.

(b) The moneys deposited to the credit of the Motor Vehicle Account in the State Transportation Fund which are appropriated in the Budget Act or any other appropriation act for the support of or expenditure by the Department of Motor Vehicles shall be expended by the department in carrying out the provisions of this code and in enforcing any other laws relating to vehicles or the use of highways.

Regularly employed peace officers of the department may, when authorized by the director, expend such sums as authorized for the purchase of counterfeit, false, forged, or fictitious certificates of ownership, registration card, certificate, license or special plate or permit, or driver's license provided for by this code as evidence, or for expenditures related to the procurement of such evidence, or for expenditures made to investigate other violations of laws administered by the department. When approved by the director, the identity of a peace officer who submits a claim need not be disclosed if the disclosure might materially prejudice the investigation.

The sums so expended shall be repaid to the peace officer making the expenditure upon claims approved by the director. The claims, when approved, shall be paid out of funds appropriated or made available by law for the support of the department.

(c) The moneys deposited to the credit of the Motor Vehicle Account in the State Transportation Fund which are appropriated in the Budget Act or any other appropriation act for the support of or expenditure by the Department of the California Highway Patrol shall be expended by the department in carrying out the provisions of this code and in enforcing any other laws relating to vehicles or the use of highways. The Department of California Highway Patrol may draw, without at the time furnishing vouchers and itemized statements, sums not to exceed in the aggregate one hundred thousand dollars (\$100,000), the sums so drawn to be used as a Revolving Fund where cash advances are necessary. At the close of each fiscal year, the moneys so drawn shall be accounted for and substantiated by vouchers and itemized statements submitted to and audited by the State Controller.

Amended Ch. 669, Stats. 1978. Effective January 1, 1979.

Transfer of Balance

42273. By the 10th day of each calendar month, the balance remaining to the credit of the Motor Vehicle Account in the State Transportation Fund at the close of business on the last day of the preceding calendar month, after payments of refunds and administration and enforcement, that is not needed for immediate use from the Motor Vehicle Account shall, on order of the State Controller, be transferred to the credit of the State Highway Account in the State Transportation Fund.

Amended Ch. 669, Stats. 1978. Effective January 1, 1979.

Retransfer to Motor Vehicle Account

42275. Notwithstanding Section 42273, the State Controller may, after at least 15 days' prior notice, transfer back to the Motor Vehicle Account in the State Transportation Fund amounts transferred to the State Highway Account in the State Transportation Fund pursuant to that section to pay costs incurred against other appropriations from the Motor Vehicle Account.

Amended Ch. 669, Stats. 1978. Effective January 1, 1979.

Report to Legislature

42276. Not later than January 10, 1985, and not later than January 10th of each four-year period thereafter, the Secretary of the Business, Transportation and Housing Agency shall submit a report to the Legislature on a study of the fees imposed under this code, including any finding or recommendation on changes in the fees necessary to generate sufficient revenues for the Motor Vehicle Account in the State Transportation Fund to finance those operations of state government to be financed from those revenues.

Added Ch. 541, Stats. 1981. Effective September 17, 1981.

Driver Training Funding: Prohibition

42277. No money in the Motor Vehicle Account in the State Transportation Fund may be expended for automobile driver training.

Added Ch. 94, Stats. 1984. Effective January 1, 1985.